111-477

# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 294.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

E. C. BELL AND JEFFERSON WILSON.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF MISSISSIPPI.

FILED SEPTEMBER 17, 1883.

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*a* United States district court, northern district of Mississippi.

Proceedings had in the district court of the United States for the northern district of Mississippi, begun and held for its December term, A. D. 1866, at the court-house in Oxford, Miss., on, to wit, the 22' day of Oct., 1866, and days subsequent thereto, in the following cause:

THE UNITED STATES, PLAINTIFF IN ERROR,
*vs.*
E. C. BELL AND JEFFERSON WILSON, DEFENDANTS IN ERROR.

H. A. Barr, esq., of Oxford, Miss., attorney for def'ts in error.

1 *Declaration.*

THE UNITED STATES OF AMERICA,
*Northern District of Mississippi:*

District court, December term, 1866.

The United States of America, by attorney, complain of R. A. Pierson, Jefferson Wilson, E. C. Bell, and W. W. Leland, citizens of said northern district, summoned by the marshal/ of said district, of a plea that they render unto them the sum of twenty-five thousand dollars which to them they owe and from them unjustly detain.

For that the said defendants heretofore, to wit, on the 9th day of April, A. D. 1858, at, to wit, in said northern district, made their certain writing obligatory (together with one Miles H. Morris, who has since departed this life, and is not sued in this action), sealed with their seals & here to the court shown in the words and figures following, to wit:

Know all men by these presents that we, Miles H. Morris, of the county Pontotoc, in the State of Mississippi, as principal, Richard A. Pierson, Jefferson Wilson, and Enoch C. Bell, of the county of Pontotoc, in the
2 State of Mississippi, and W. W. Leland, of the county of Pontotoc, in the State of Mississippi, as sureties, are held and firmly bound unto the United States of America in the sum of twenty-five thousand dollars, lawful money of the United States, for which payment well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, and administrators, in the whole and for the whole, jointly & severally, firmly by these presents. Sealed with our seals and dated this ninth day of April, A. D. one thousand eight hundred & fifty eight.

The condition of the above obligation is such that if the above-bound Miles H. Morris shall faithfully discharge all his duties as purser of the Navy of the United States, then the above obligation to be void and of no effect; otherwise to be and remain in full force and virtue.

MILES H. MORRIS. [L. S.]
R. A. PIERSON. [L. S.]
JEFFERSON WILSON. [L. S.]
E. C. BELL. [L. S.]
W. W. LELAND. [L. S.]

Signed, sealed, and delivered in the presence of—
R. MITCHELL.

Richard A. Pinson, being duly sworn deposes and says that he
3 resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property over and above all debts and liabilities incurred by him is over ten thousand dollars.

R. A. PIERSON.

Sworn & subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

Jefferson Wilson, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property over and above all debts and liabilities incurred by him is over five thousand (five thousand) dollars.

JEFFERSON WILSON.

Sworn and subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

Enoch C. Bell, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property over and above all debts and liabilities incurred by him is over five thousand dollars.

E. C. BELL.

4 Sworn and subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

W. W. Leland, being duly sworn, deposes and says, that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property over and above all debts, liabilities incurred by him, is over five thousand dollars.

W. W. LELAND.

Sworn to and subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

I certify that I have made due and diligent personal inquiry as to the ability of the sureties in this bond and am satisfied that they are good and sufficient for the sum of twenty-five thousand dollars.

Given under my hand this 12th day of April, 1858, A. D.

S. J. GHOLSON,
*Judge U. S. D. C. for Mississippi.*

A true copy.

J. M. BRODHEAD, *Comptroller.*

5 And plaintiffs aver that said Miles H. Morris, in his life time, did not faithfully discharge all his duties as purser in the Navy of the United States, because, they say, 1st: That on the day of , to wit, in said northern district, the said Miles H. Morris, as purser of

the Navy of the United States, received the sum of ten thousand dollars, the property of the plaintiffs, which he then and there wrongfully converted to his own use by means whereof, and by reason, said sum of money remaining wholly unpaid, an action hath accrued to plaintiffs to have and recover from said defendants said sum of money.

And plaintiffs further aver that on the day and year aforesaid in the said northern district, the said Miles H. Morris, as purser of the Navy of the United States, received one thousand coats, one thousand blankets, one thousand pairs of pants, one thousand vests, one thousand pairs of socks, one thousand shirts, one thousand pairs of drawers, all of the value of five thousand dollars, and other clothing of the value of five thousand
6 dollars, the property of plaintiffs. to be by him disposed of according to law, which said Morris failed and refused to do, and wrongfully converted said property to his own use by means whereof an action hath accrued to plaintiffs to recover of defendants said sum of money, ten thousand dollars. Yet said Morris, in his lifetime, and said defendants, although often requested, have failed and refused, and said defendants do still fail and refuse to pay said sum and sums of money, or either of them, or any part thereof, to the damages of plaintiffs twenty five thousand dollars, & therefore they sue, &c.

J. E. STEWART,
*U. S. Att'y.*
SALE, PHELAN & DOWD,
*Att'y's for Pl'ffs.*

Filed & summons issued 22' Oct., 1866.

J. H. VISER, *Cl'k.*

The following is the wording of the original summon sued out in said cause & the return of the marshal thereon, to wit:

*Summons.*

The President of the United States to the marshal of the northern
7 district of Mississippi, greeting:

We command you without delay to summon R. A. Pierson, Jefferson Wilson, E. C. Bell, and W. P. Leland, that they be and appear before the district court of the United States, to be held at the town of Oxford, for the northern district of Mississippi, on the first Monday in December next to answer to the complaint of the United States of a plea of debt, and that they do file their plea or defence with the clerk of said court on or before the meeting of the same, or judgment will be given against them by default, and have then there this writ.

Witness the honorable Robert A. Hill, judge of the district court of the United States for the northern district of Mississippi at Oxford, the first Monday of June, A. D. 1866, & 90th year of the Independence of the United States.

Issued the 22' day of October, 1866.

[SEAL OF COURT.] J. H. VISER, *Clerk.*

*Deputation.*

I hereby constitute and appoint E. W. Roots my special deputy to execute this writ. Given under my hand and seal this 23d day of Oct., 1866.

JOHN BLEVINS,
*U. S. Marshal.*

8 Came to hand 27th Oct., 1866.

JOHN BLEVINS,
*U. S. Marshal.*

*Return.*

Executed on defendants E. C. Bell & W. W. Leland the 27th October, 1866; on defendant R. A. Pierson the 29th Oct., 1866, and on defendant Jefferson Wilson the 3d of November, 1866.

JOHN BLEVINS,
*U. S. Marshal,*
By E. W. ROOTES,
*Special Deputy.*

Executing, $8.00; entry & return, .50; 4 copies, 2.00; mileage, 2.40—$12.90.

And at the December term, A. D. 1866, on the 7th day of Dec., the same being a day of said term, the following order was made, to wit:

*Order.*

UNITED STATES
*v.* } 198.
R. A. PIERSON.

Upon application of the defendants they are allowed until the next term of this court to plead.

And afterwards, to wit, on the 5th day of June, 1867, a plea was filed, which is in the words and figures following, to wit:

*Pleas.*

THE UNITED STATES
*v.* } 198.
R. A. PIERSON.

The United States of America, northern district of Mississippi, district court, June term, 1867.

9 And the said defendants who have been served with process come and say that said Miles H. Morris did not, as purser of the Navy of the United States, receive and wrongfully convert to his own use the said sum of ten thousand dollars, as alleged by plaintiff in his first breach in his declaration, and of this they put themselves upon the country.

BARR & WILSON,
*Att'ys for Def.*

And said defendants for further plea come and say that said Miles H. Morris did not, as purser of the Navy of United States, receive and convert to his own use the coats, blankets, pants, vests, socks, shirts, drawers mentioned by plaintiff in his second breach in said declaration, and of this they put themselves upon the country.

BARR & WILSON,
*Att'y' for Def.*

And the said defendants for further plea by attorney come and say that they do not owe the said sums in said declaration mentioned, or either of them, or any part thereof, in manner and form as said plaintiff hath above thereof complained against them, and of this they put themselves upon the country, &c.

*Notice.*

And notice is hereby given to plaintiff that under this plea the
10 defendants will rely upon the fact that the liability of Miles H. Morris has not been so fixed and determined by any competent tribunal so as to render the defendants liable as his sureties.

And that they will give evidence to show that Miles H. Morris has fully settled all his accounts as purser in the Navy with the proper officers of the Government of the United States so far as it was practicable and possible for him to settle the same; that there were some unsettled accounts between the United States and the said Miles H. Morris in May, 1861, when the war commenced between the United States and the States organized under the appellation of "Confederate States;" that said Morris was then in the State of Alabama, being a citizen of that State, and was prevented by said war from going to Washington City to have a final settlement with the proper Department; that said Morris died during said war; that since the close of said war the administratrix of said Morris has made a report of said unsettled accounts, supported by vouchers, and submitted the same to the proper officers of the Government of the U. S., who
11 have audited and approved the same, and thereby the said accounts of said Miles H. Morris with the U. S. have been fully settled, and the bond of said Morris & his sureties have been discharged.

And that all liabilities of said Morris as purser as aforesaid have been fully paid and discharged.

And that said Morris, as purser as aforesaid, has fully expended all moneys, goods, & stores rec'd by him as purser as aforesaid according to the laws, rules, and regulations of the Naval Department of the Government of the United States for and on account of said Naval Department.

BARR & WILSON,
*Att'y' for Def'ts.*

And for further plea in this behalf the said defendants, by attorneys, comes and say actio non, because they say that the several sums in said declaration mentioned were fully paid off and discharged by said Morris and adm'x before the commencement of this suit, and this they are ready to verify.

Wherefore they pray judg't, &c.

BARR & WILSON,
*Attor. for Def'ts.*

12 *Replication.*

Replication and issue in short by consent on 4th plea of payment.

J. A. STEWART,
*U. S. Dist. Attorney.*

Said pleas & replication filed 5' June, 1867.

J. H. VISER, *Clk.*

And afterwards, on the 10' day of June, the same being a day of the June term of said court in 1867, the following order was made, to wit:

*Continuance & leave to amend.*

UNITED STATES
*v.* } 198.
R. A. PIERSON ET AL.

Came the parties, by their attorneys, and this cause is continued with leave to the plaintiff to amend the pleadings.

And at the December term, 1867, on the 9' day of Dec'r of said court, in said cause, on the minute' appears the following entry, to wit:

*Cont.*

UNITED STATES
*v.* } 198.
R. A. PIERSON ET AL.

Continued by defendants at last of this term.

13 And at June term, 1868, on the 10' day of June, a day of said term, the following entry appears on the minutes of said court in this case, to wit:

*Cont.*

UNITED STATES
*v.* } 198.
R. A. PIERSON ET AL.

Continued by consent.

And afterwards, to wit, on the 11' day of Dec., 1868, the following exceptions were filed in said cause, to wit:

*Exceptions to evidence.*

UNITED STATES
*v.* } 198.
R. A. PIERSON AT AL.

The defendants except to the copy of the bond set out in the declaration

as evidence in this case, because it is not properly certified and not certified by the proper officer.

The defendants except to the transcript purporting to be a copy of the accounts of Miles H. Morris, on file in the papers of this case, as evidence in this case, because it is not certified to by the proper officer & the certificate is insufficient, and the account is not made out by items, as the law requires, & no evidence is filed with it to sustain any of the charges.

H. A. BARR,
*Att'y for Def't.*

Filed 11' Dec., 1868.

J. H. VISER, *Clerk.*

14 The following is a copy of the bond sued on, & to which the foregoing exception is taken, to wit:

*Bond.*

Know all men by these presents that we, Miles H. Morris, of the county of Pontotoc, in the State of Mississippi, as principal; Richard A. Pinson, Jefferson Wilson, and Enoch C. Bill, of the county of Pontotoc, in the State of Mississippi, and W. W. Leland, of the county of Pontotoc, in the State of Mississippi, as sureties, are held and firmly bound unto the United States of America in the sum of twenty-five thousand dollars, lawful money of the United States, to be paid to the said United States, for which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, in the whole and for the whole, jointly and severally, firmly by these presents. Sealed with our seals and dated this ninth day of April, anno Domini, one thousand eight hundred and fifty-eight.

The condition of the above obligation is such that if the above-
15 bound Miles H. Morris shall faithfully discharge all his duties as purser in the Navy of the United States, then the above obligation to be void and of no effect; otherwise to be and remain in full force and virtue.

MILES H. MORRIS. [L. S.]
R. A. PIERSON. [L. S.]
JEFFERSON WILSON. [L. S.]
E. C. BILL. [L. S.]
W. W. LELAND. [L. S.]

Signed, sealed, and delivered in the presence of—
R. MITCHELL.

Richard A. Pierson, being duly sworn, deposes and says that he resided in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over ten thousand dollars.

R. A. PIERSON.

Sworn and subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

Jefferson Wilson, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

JEFFERSON WILSON.

Sworn and subscribed this 9' day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

16 Enoch C. Bell, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

E. C. BELL.

Sworn and subscribed this 9th day of April, 1858.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

W. W. Leland, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

W. W. LELAND.

Sworn and subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

I certify that I have made due and diligent personal inquiry as to the ability of the sureties in this bond, and am satisfied that they are good and sufficient for the sum of twenty-five thousand dollars.

17 Given under my hand this 12th day of April, 1858, A. D.

S. J. GHOLSON,
*Judge, U. S. D. C. for Mississippi.*

A true copy.

J. M. BRODHEAD, *Comptroller.*

Be it remembered that J. M. Brodhead, esq., who certified the annexed bond is now, and was at that time of doing so, Second Comptroller of the Treasury, and that full faith and credit are due to his official attestations.

In testimony whereof I, Hugh McCulloch, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of the Department, at the city of Washington, this eighth day of June, in the year of our Lord 1866.

[SEAL OF DEPARTMENT.]

H. McCULLOCH,
*Secretary of the Treasury.*

Filed Oct. 22, 1866. J. H. Viser, clerk.

And the following is a transcript of the account sued on, filed 5' Dec., 1866, & referred to in the foregoing exceptions, to wit:

18 *Miles H. Morris, late paymaster U. S. Navy, including his leave-pay from March 8th, 1860, day to which his account as p'r of the ship Vandalia was settled, to June 30, 1860; then sea duty pay as paymaster of the U. S. steamer Seminole to March 12, 1861; then leave-pay to June 1, 1861, day he was dismissed the service, in account with the U. States, Dr.*

PAY OF THE NAVY.

| | | | | | |
|---|---|---|---|---|---|
| | | To balance | report 2451 | | $5,863 05 |
| | | " Geo. Loyall | | 2413 | 125 00 |
| | | " " | | 2459 | 125 00 |
| | | " Geo. N. Sanders | | 2505 | 1,375 00 |
| | | " Geo. Loyall | | 2541 | 1,062 50 |
| | | " Felix Senac | | 2551 | 223 80 |
| | | " Wm. Badger | | 2632 | 64 00 |
| | | " Wm. Flinn | | 2662 | 255 00 |
| 1861. | | | | | |
| Ap'l | 3. | " requisition No. 8139 | | | 8,500 00 |
| | | " A. F. Ammidown | | 2681 | 170 00 |
| | | " E. T. Dunn | | 2678 | 7,000 00 |
| May | 2. | " requisition 8218 | | | 2,500 00 |
| | | " Wm. F. Russell | | 2692 | 1,548 00 |
| | | " Wm. Badger | | 2699 | 426 00 |
| | | " H. F. Wendell | | 2733 | 128 00 |
| | | " Wm. Flinn | | 2737 | 380 00 |
| | | " J. O. Bradford | | 2749 | 59 75 |
| | | " A. F. Ammidown | | 2751 | 385 00 |
| | | Carried over | | | $30,190 10 |

DR. PAY OF THE NAVY.

| | | | | | |
|---|---|---|---|---|---|
| | | To am't bro't over | | | $30,190 10 |
| | | " W. F. Russell | report 2757 | | 1,057 00 |
| | | " Geo. Loyall | | 2759 | 1,612 00 |
| | | " J. O. Bradford | | 2761 | 342 13 |
| 1861. | | | | | |
| July | 22. | " requisition 8447 transfer | | | 2,336 88 |
| | | " A. F. Ammidown | | 2778 | 300 00 |
| 19 | | " Wm. Badger | | 2786 | 876 00 |
| | | " H. F. Wendell | | 2802 | 32 00 |
| | | " Wm. Flinn | | 2792 | 550 00 |
| | | " Wm. F. Russell | | 2803 | 1,234 00 |
| | | " H. G. S. Key | | 2811 | 450 00 |
| | | " W. F. Russell | | 2868 | 126 00 |
| | | " E. L. Norton | | 2857 | 115 00 |
| | | " H. G. S. Key | | 2909 | 360 00 |
| | | " Barings Brs. and Co | | 2930 | 6,222 22 |
| | | " Wm. Badger | | 3030 | 212 00 |

| | | | |
|---|---|---|---|
| " | W. P. Ewing | 3047 | 345 00 |
| " | S. P. Brown | 2944 | 310 00 |
| " | J. S. Chambers | 3101 | 584 00 |
| " | I. Henderson | 3125 | 386 00 |
| " | E. L. Norton | 3145 | 15 00 |
| | Carried forward | | 47,655 33 |

DR. PAY OF THE NAVY.

| | | | | |
|---|---|---|---|---|
| | To am't bro't over | | | $47,655 33 |
| " | W. P. Ewing | report 3157 | | 65 00 |
| " | W. H. Macomb | 3225 | | 350 00 |
| " | J. S. Chambers | 3265 | | 314 00 |
| " | S. P. Brown | 3263 | | 395 00 |
| " | I. Henderson | 3312 | | 828 00 |
| " | J. S. Chambers | 3332 | | 100 00 |
| " | Geo. Loyall | 3341 | | 560 00 |
| " | L. D. Slamm | 3378 | | 20,000 00 |
| " | S. P. Brown | 3434 | | 269 00 |
| " | Louis Sands | 3441 | | 157 00 |
| " | I. Henderson | 3469 | | 776 00 |
| " | J. S. Chambers | 3576 | | 80 00 |
| " | " | 3656 | | 70 00 |
| " | " | 3766 | | 10 00 |
| " | C. C. Jackson | 3805 | | 6 00 |
| " | I. Henderson | 3880 | | 339 00 |
| " | " | 4030 | | 134 00 |
| " | hospital fund, per rolls, &c | | | 203 13 |
| " | excess credit by report 2761, overp'y | | $9 22 | |
| " | s. stores rec'd of n. s. keeper and gain on issuing | | 1,689 91 | |
| " | premium on exchange on Barings | | 365 78 | |
| " | cash of Walker for sword-belt | | 4 00 | |
| | | | | 2,068 91 |
| | | | | 74,380 37 |
| | To balance per contra | | | $807 83 |

PAY OF THE NAVY.

| | | | | |
|---|---|---|---|---|
| 1860. | By J. D. Gibson | report 2455 | | 250 00 |
| Aug. 2. | " requisition 6560, refunding cash | | | 389 94 |
| | " J. O. Bradford | 2761 | | 35 48 |
| | " J. H. Watmaugh | 2775 | | 160 00 |
| | " J. N. B. Bleecker | 2841½ | | 32 00 |
| | " Ch's Steedman | 2869 | | 18 00 |

| | | | |
|---|---|---|---|
| " S. P. Carter | 3102 | | 425 00 |
| " S. P. Brown | 2944 | | 510 00 |
| " Louis Sands | 3441 | | 22, 810 71 |
| " W. H. Macomb | 3225 | | 340 00 |
| Carried forward | | | 24, 971 13 |

PAY OF THE NAVY, CR.

| | | |
|---|---|---|
| By amount bro't forward | | $24, 971 13 |
| " expenditures per abstract | | 27, 686 10 |
| " I. Henderson, allotments twice credited; twice recharged | | 160 00 |
| " requisition to effect a transfer | | 20, 755 31 |
| " balance dus U. States | | 807 83 |
| | | 74, 380 37 |

21 DR. PROVISIONS OF THE NAVY.

| | | | |
|---|---|---|---|
| 1861. | | | |
| May 2nd. To requisition 8218, cash | | | $6, 000 00 |
| " Baring, Bros. and Co. bill....rep't | 2930 | | 2, 666 66 |
| " requis'n to effect a transfer | | | 12, 106 02 |
| | | | $20, 772 68 |

CR. PROVISIONS, &C.

| | | |
|---|---|---|
| By balance per report 2451 | | $13, 577 73 |
| " expenditures, per abstract | | 7, 194 94 |
| | | 20, 772 68 |

CONTINGENT.

| | | | |
|---|---|---|---|
| 1860. | | | |
| Oct. 3. To requisition 7720, cash | | | $2, 166 00 |
| " Barings Br's and Co.....rep't | 2980 | | 2, 222 22 |
| " premium on exchange on Barings | | | 130 48 |
| | | | $4, 518 70 |

CONTINGENT.

| | | |
|---|---|---|
| By balance.....report 2451 | | 356 53 |
| " expenditures, per abstract | | 983 38 |
| " requis'n to effect a transfer | | 3, 178 79 |
| | | 4, 518 70 |

CONSTRUCTION AND REPAIRS.

| | |
|---|---|
| To balance per report 2451 | $6, 303 95 |
| | 6, 303 95 |

CONSTRUCTION AND REPAIRS.

| | | |
|---|---|---|
| By expenditures, per abstract | | $51,101 73 |
| " requis'n to effect a transfer | | 1,202 22 |
| | | 6,303 95 |

22 SURGEON'S NECESSARIES.

| | | |
|---|---|---|
| To balance | report 2451 | 1,025 30 |

SURGEON'S NECESSARIES.

| | | |
|---|---|---|
| By expenditures, per abstract | | 79 65 |
| " requis'n to effect a transfer | | 945 65 |
| | | 1,025 30 |

DR. PAY OF MARINE CORPS.

| | | | |
|---|---|---|---|
| To Wm. Badger | rep't 2632 | | $10 00 |
| " W. F. Russell | 2692 | | 22 00 |
| " W. Badger | 2699 | | 15 00 |
| " W. F. Russell | 2757 | | 33 00 |
| " Geo. Loyall | 2759 | | 40 00 |
| " W. Badger | 2786 | | 15 00 |
| " W. F. Russell | 2803 | | 44 00 |
| " " | 2868 | | 11 00 |
| " J. S. Chambers | 3101 | | 15 00 |
| " I. Henderson | 3125 | | 11 00 |
| " J. S. Chambers | 3265 | | 15 00 |
| " I. Henderson | 3312 | | 33 00 |
| " J. S. Chambers | 3332 | | 15 00 |
| " Geo. Loyall | 3341 | | 8 00 |
| " I. Henderson | 3469 | | 44 00 |
| " J. S. Chambers | 3516 | | 15 00 |
| " " | 3656 | | 15 00 |
| " " | 3766 | | 5 00 |
| " hospital fund | | | 21 84 |
| " requis'n to effect a transfer | | | 3,403 75 |
| | | | 3,791 59 |

23 PAY OF MARINE CORPS, CR.

| | | | |
|---|---|---|---|
| By balance | report 2451 | | $3,114 25 |
| " Louis Sands | 3441 | | 190 00 |
| " expend's, per abstract | | | 487 34 |
| | | | 3,791 59 |

DR. CLOTHING OF THE NAVY.

| | | |
|---|---|---|
| To balance..... .....report 2451..... | | $4,866 31 |
| " Felix Senac ..... 2551..... | | 124 87 |
| " slop clothing and 10% rec'd of n. s. keepers ..... ..... | | 5,438 91 |
| | | 10,430 09 |
| To balance per contra ..... | | $2,529 43 |

CLOTHING, CR.

1861.

| | | |
|---|---|---|
| July 22. By requis'n 6714, transfer..... | | 2,336 88 |
| " Louis Sands, 3441 ..... ..... | | 3,158 74 |
| " expenditures, per abstract..... ..... | | 2,405 04 |
| " balance due U. States..... ..... | | 2,529 43 |
| | | $10,430 09 |

Balances produced:

| | |
|---|---|
| Pay of the Navy ..... | $807 83 |
| Clothing the Navy..... ..... | 2,529 43 |
| Total balance due U. States..... | 3,337 26 |

D. HIGGINS.

TREASURY DEPARTMENT,
4TH AUDITOR'S OFFICE,
*March 15th*, 1866.
2ND COMP'T OFFICE,
*April 2nd*, 1866.

M. CAMPBELL.

24 *Reconcilement of the account of Miles H. Morris, late paymaster of the U. S. steamer Seminole, including his leave pay from March 8th*, 1860, *day of his settlement as p'r of the Vandalia to June 30th*, 1860, *day of commencing duty on the Seminole, then sea pay July* 1, 1860, *to March* 12, 1861, *day of his discharge from the Seminole, then leave pay to June* 1, 1861, *day of his discharge from the service.*

By office statement a balance is found due to the U. States of.. 3,337 26

Which is thus explained:

DR.

| | | |
|---|---|---|
| To deficiency in clothing account rendered on the Vandalia..... | 749 62 | |

Less by these sums:

CR.

| | | |
|---|---|---|
| By pay of self while settling % of the Vandalia not credited before..... | 164 38 | |
| " short footing on % current Vandalia..... | 14 50 | |
| " excess hospital fund charged on do.. | 64 | |
| | | $179 52 |
| | | $570 10 |

DR.

On this settlement:

| | |
|---|---|
| To this sum unaccounted for, being the difference between amounts received and amounts paid out on Seminole..... | 2,767 16 |
| Balance as above stated..... | 3,337 26 |

(Signed) S. J. W. TABOR, *Auditor.*

TREASURY DEPARTMENT, 4TH AUDITOR'S OFFICE,
*March* 15, 1866.

NOTE.—A copy of this reconciling statement was sent to W. Moody, attorney for the widow of P'r Morris, at Tuscaloosa, Alabama, April 18, 1866.

D. H.

Filed Dec. 5, 1866.

J. H. VISER, *Clerk.*

25 TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
*June 7th*, 1866.

Pursuant to an act of Congress to provide for the prompt settlement of public accounts, approved March 3d, 1817, I, Stephen J. W. Tabor, Fourth Auditor of the Treasury Department, do hereby certify that the transcripts hereto annexed are truly transcribed from the original records on file in this office.

In testimony whereof I have to these presents set my hand the day and year above stated.

STEPHEN J. W. TABOR,
*Auditor.*

Be it remembered that Stephen J. W. Tabor, esq., who certified the annexed transcripts, is now, and was at the time of doing so, Fourth Auditor of the Treasury, and that full faith and credit are due to his official attestations.

In testimony whereof I, Hugh McCulloch, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the city of Washington, this seventh day of June, in the year of our Lord 1866.

H. McCULLOCH,
*Secretary of the Treasury.*

Filed Dec. 5, 1866.

J. H. VISER, *Clerk.*

26 And afterwards, to wit, at the December term, 1868, on the 18' day of December, the same being a day of said term, the following order was made in said cause, to wit:

*Order sustaining exceptions & cont. case.*

UNITED STATES
*v.* } 198.
R. A. PIERSON ET AL.

Came the parties, by their attorneys, and the defendants' exceptions to the plaintiffs' evidence is sustained, with leave to amend the pleadings, and this cause continued.

And upon the minutes of said court, in said cause, at the June term, 1869, on the 17' day of June, the same being a day of said term, the following entry appears, to wit:

UNITED STATES
*v.* } 198.
R. A. PIERSON ET AT.

Dismissed.

*Reinstated.*

And afterwards, to wit, on the 23' Dec., 1873, said cause was reinstated, as appears from the following endorsement, which appears upon the foregoing account, just copied, to wit:

"Reinstated Dec. 23, 1873.

"G. R. HILL, *Clerk.*"

27 And thereupon, on the 15th day of January, 1874, the following further summon' was sued out in said cause in the words & figures following, to wit:

*Summon.*

The President of the United States to the marshal of the northern district of Mississippi, greeting:

We command you without delay to summon R. A. Pierson, Jefferson Wilson, & E. C. Bell, and W. W. Leland, citizen' of the State of Mississippi, residing in the northern district thereof, that they be and appear before the district court of the United States, to be held at the town of Oxford, for the said northern district of Mississippi, on the first Monday of June next, to answer to the complaint of the United States of America, and that they do file their plea or defence with the clerk of said court on or before the meeting of the same, or judgment will be given against them by default, and have then there this writ.

Witness the honorable Robert A. Hill, judge of the district court of the United States for the northern district of Mississippi, at Oxford, the first

Monday of December, A. D. 1873, and 98th year of the Independence of the United States.

Issued the 15' day of Jan'y, 1874.

[SEAL OF COURT.] G. R. HILL, *Clerk.*

28 And upon the foregoing writ, the marshal made his return in the words & figures following, to wit:

*Returns.*

The within-named defendant R. A. Pierson is deceased, and is not to be found in my district, and as to him no service is made.

M'ch 2, 1874.

J. H. PIERCE, *U. S. M.*

Executed the within process this day personally, on the within-named defendants Jefferson Wilson and W. W. Leland, by handing to *to* each of them a true copy thereof.

M'ch 2, 1874.

J. H. PIERCE, *U. S. Marshal,*
By G. W. JONES, *Deputy.*

Executed the within process this day personally on the within-named defendant E. C. Bell, by delivering to him a true copy of this writ.

March 25, 1874.

J. H. PIERCE, *U. S. Marshal,*
By G. W. JONES, *Deputy.*

Marshal's cost: Service, $6.00; travel, 190 miles, .06, 11.52—$17.52.

And afterwards, to wit, on the 10th day of June, 1874, the same being a day of the June term of said court in said , upon the minutes of said court appears the following entry, to wit:

29 *Order of reviver.*

UNITED STATES
*v.* } 987.
R. A. PIERSON ET AL.

This day came the district attorney, who prosecutes on the part of the United States, into open court and suggests the death of R. A. Pierson, and asks leave to revive this suit in the name of S. Pierson, administratrix of said R. A. Pierson. It is therefore considered by the court that this cause be revived in the name of said administratrix, and that scire facias issue.

And afterwards, on the 28' Aug., 1874, a scire facias was sued out in said cause in the words and figures following, to wit:

*Sci. fa.*

The President of the United States to the marshal of the northern district of Mississippi, greeting:

Whereas, heretofore, to wit, at the December term, A. D. 1866, in the district court for said district, suit was commenced by the United States, plaintiff, against R. A. Pierson et al., defendants. And whereas, since the commencement of said suit, R. A. Pierson, one of the defendants in said, suit has departed this life:

Now, therefore, we command you to summon Mrs. S. Pierson,
30 administratrix of the said decedant, to be and appear before our said court on the 1st Monday in December next, to show cause, if any she can, why said suit should not proceed against her as administratrix of said decedant; and have you then & there this writ.

Witness the honorable R. A. Hill, judge of said court, and the seal thereof, at Oxford, the first Monday of June, A. D. 1874, and the 98' year of American Independance.

Issued the 28' day of August, 1874.

[SEAL OF COURT.] G. R. HILL, *Clerk.*

Upon the foregoing writ the marshal made the following return, to wit:

*Return.*

Defendant not found in my district after diligent search.
Dec. 7, 1874.

J. H. PIERCE, *U. S. M.*

And afterwards, to wit, on the 18' day of Jan., 1875, an alias scirefacias was sued out in said cause, in the words following:

*Alias scire facias.*

The President of the United States to the marshal of the northern district of Mississippi, greeting:

Whereas, heretofore, to wit, at the December term, A. D. 1866,
31 in the district court of the United States for said, district suit was commenced by the United States, plantiff, against R. A. Pierson et als., defendants. And whereas since the commencement of said suit R. A. Pierson, one of the defendants in said suit, has departed this life and Mrs. S. Pierson has been appointed administratrix of the estate of the said R. A. Pierson, dec'd:

Now, therefore, we command you to summon Mrs. S. Pierson, administratrix of said R. A. Pierson, dec'd, to be and appear before our said court on the 1st Monday in June next, to show cause, if any she can, why said suit should not be revived against her as administratrix of said decedent, and have you then & there this writ.

Witness the Hon. R. A. Hill, judge of said court, and the seal thereof, at Oxford, the first Monday in December, 1874, and the 99' year of American Independence.

Issued January 18, 1875.

[SEAL OF COURT.] G. R. HILL, *Clerk.*

Upon the foregoing writ is the following pencil memorandum, to wit:
"Not ex. Mrs. P. in Memphis. Janu. '75.
"WEBSTER JONES."

32 And afterwards, to wit, on the 16th day of July, 1875, the same being a day of the June term, 1875, the following order was made in said cause, to wit:

*Continuance.*

It is ordered by the court that the following cause on the United States docket be continued, to wit: United States v. R. A. Pierson et al.

And afterwards, at the December term, 1875, on the 17' day of December, a day of said term, the following further order was made in said case among others, to wit:

*Continuance.*

It is ordered by the court that the following causes on the United States docket be and the same are hereby continued for compromise by No., to wit, Nos. ***, 987, ***.

And afterwards, to wit, on the 26' day of July, 1876, a pl. sci. fa. was sued out in said court in the words following, to wit:

*Pl. sci. fa.*

The President of the United States to the marshal of the northern district of Mississippi, greeting:

33 Whereas heretofore, to wit, at the December term, A. D. 1866, in the district court for said district, suit was commenced by the United States, plaintiff, against R. A. Pierson et al., defendants; and whereas, since the commencement of said suit, R. A. Pierson, one of the defendants in said suit, has departed this life, and Mrs. S. Pierson has been suggested as the administratrix of said deceased:

Now, therefore, we command you to summon Mrs. S. Pierson, administratrix of the said decedent, to be and appear before our said court on the 1st Monday of December next, at the court-house in Oxford, in said district, to show cause, if any she can, why said suit shall not proceed against her as administratrix of said decedent, & have you then there this writ.

Witness the honorable R. A. Hill, judge of said court, and the seal thereof, at Oxford, the first Monday of June, A. D. 1876, and the 100' year of the Independence of the U. S.

Issued the 26' day of July, 1876.

[S'L OF C'T.] G. R. HILL, *Clerk.*

Upon which said writ the marshal made the following return:

34 Defendant not found.
Dec. 4, 1876.

J. H. PIERCE, *U. S. M.*

*Continuances.*

And afterwards, from the December term of this court, 1876, until the June term thereof, 1880, nothing was done in this case except that at each term between said dates a common order of continuance was taken, and it is deemed unnecessary to encumber this record with a copy of each of said orders.

And again, to wit, on the 17' day of July, 1880, the same being a day of the June term of said court, the following further order was made in said cause, to wit:

*Leave to amend, &c., & continuance.*

UNITED STATES
*v.* } 987.
R. A. PIERSON ET AL.

On application of the plaintiff leave is granted by the court to file an amended declaration in this case, and leave is given to refile the old declaration among the papers in the case and to adopt that as the amended declaration; and leave is also given to file the pleas now on file in the case, and plead further at this term of the court, and the case is continued to next term.

35 And, thereupon, immediately, the following endorsement was made upon the original declaration, as well also upon the original pleas filed herein, to wit:

"Refiled July 17th, 1880, by leave of court. G. R. Hill, clerk."

And again, at the December term, 1880, on the 21st day of Dec., the same being a day of said term, the following order was made in said case, to wit:

*Order to amend & con'ue.*

UNITED STATES
*vs.* } 987.
R. A. PIERSON ET AL.

Came the district attorney on the part of the United States and dismisses this suit as to R. A. Pierson, W. W. Leland, two of the defendants, and thereupon, upon application of the district attorney, leave is granted to plaintiff to file an amendment to its declaration, which is thereupon done accordingly, and this case is continued until the next term of this court.

And thereupon, at said term, plaintiff filed its amendment to its former declaration, which is in the words and figures following, to wit:

36 *Amendment to declaration.*

UNITED STATES OF AMERICA,
*Northern District of Mississippi:*

In the district court, December term, 1880.

UNITED STATES
*v.*
R. A. PIERSON ET ALS.

The plaintiff having first obtained leave of the court to file an amendment to the declaration in this case assigns an additional breach of the bond sued on.

Plaintiffs by their attorney complain and aver that the said Miles H. Morris did not faithfully discharge all his duties as purser in the Navy of the United States, because they say that on the 19th day of January, 1874, the accounts of the said Morris were stated by the Treasury Department and a balance struck, and the said Morris was found to be due to plaintiffs a balance of $5,923.66 which the said defendants then & there refused to pay & still refuse. Wherefore pl'ffs sue & demand judgment for said amount, &c.

Filed by leave of the court Dec. 21, 1880.

G. R. HILL, *Clerk.*

37 And at the next term of said court, to wit, the June term, 1881, on the 6th day of July, '81, the same being a day of said term, a judgment was had in said cause, which is in the words and figures following, to wit:

*Judgment.*

UNITED STATES
*v.* } 987.
R. A. PIERSON ET ALS.

This day came the district attorney, on the part of the United States, into open court, and came also the defendants, E. C. Bell and Jefferson Wilson, the only remaining defendants herein, by their attorney, and thereupon came a jury of good and lawful men, to wit, jury No. 1, who being duly elected, empanneled, charged, and sworn well and truly to try the issue joined between the plaintiff and said defendants, upon their oath say they find for the defendants. It is therefore considered by the court that the plaintiff take nothing by its declaration & that the said defendants go hence.

And thereupon the district attorney on the 13' July, '81, entered his motion for a new trial, which is in the words and figures following, to wit:

*Motion for new trial.*

UNITED STATES OF AMERICA:

District court for the northern district of Mississippi.

38 *Motion for new trial.*

UNITED STATES
*v.* } 987.
R. A. PIERSON ET AL.

And now comes the attorney for the United States, and moves the court to set aside the verdict of the jury in case and to grant a new trial for the following causes, to wit:

1st. Because the court erred in refusing to allow the certified copy of the bond of defendants to be read as evidence to the jury.

2nd. Because the court erred in refusing to allow the transcript of the record and proceedings of the Treasury Department, showing the indebtedness of Miles H. Morris, to be read to the jury as evidence.

3. Because the court erred in refusing under the circumstances to allow the United States to withdraw the case from the jury, and refused to allow a postponement of the further consideration of the case, to enable plaintiff to procure the original bond of Miles H. Morris, or a copy thereof certified according to the views of the court.

4th. Because of evidence in support of this motion to be offered at the hearing thereof.

G. C. CHANDLER,
*U. S. Attorney.*

Filed & ent. Motion docket 2, page 70. July 13th, 1881.
Sig. G. R. HILL, *Clerk.*

39 And afterwards, to wit, on the 15' day of August, the same being a day of the June term of said court, A. D. 1881, an order was made overruling the foregoing motion in the words following, to wit:

*Order overruling motion.*

THE UNITED STATES
*vs.* } 987.
R. A. PIERSON ET AL.

This day came on this motion to set aside the verdict and judgment in this case, and the court, having considered the same, doth overrule the motion, and the United States, by the district attorney, excepts and tenders his bill of exceptions, which is signed, sealed, and made a part of the record of this case.

R. A. HILL, *Judge.*

And thereupon on the 15th day of August, 1881, the following bill of exceptions was filed, to wit:

*Bill of exceptions.*

District court of the United States for the northern district of Mississippi, at June term, 1881.

UNITED STATES
*vs.*
R. A. PIERSON ET AL.

40 Be it remembered that on this the 20' day of June, 1881, the same being a day of the June term, 1881, of court, the above-stated case came on for trial, when the attorney for the United States offered in evidence to the jury the following copy of the bond sued on, to wit:

*Bond.*

Know all men by these presents that we, Miles H. Morris, in the county of Pontotoc, in the State of Mississippi, as principal; Richard A. Pierson, Jefferson Wilson, and Enoch C. Bell, of the county of Pontotoc, in the State of Mississippi, and W. W. Leland, in the county of Pontotoc, in the State of Mississippi, as sureties, are held and firmly bound unto the United States of America in the sum of twenty-five thousand dollars, lawful money of the United States, to be paid to the said United States, for which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, in the whole and for the whole, jointly and severally, firmly by these presents. Sealed with our seals and dated this ninth day of April, anno Domini one thousand eight hundred and fifty-eight.

41 The condition of the above obligation is such that if the above-bound Miles H. Morris shall faithfully discharge all his duties as purser in the Navy of the United States, then the above obligation to be void and of no effect; otherwise to be and remain in full force and virtue.

MILES H. MORRIS. [L. S.]
R. A. PIERSON. [L. S.]
JEFFERSON WILSON. [L. S.]
E. C. BELL. [L. S.]
W. W. LELAND. [L. S.]

Signed, sealed and delivered in presence of—
R. MITCHELL.

Richard A. Pierson, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over ten thousand dollars.

R. A. PIERSON.

Sworn and subscribed this the 9' day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

Jefferson Wilson, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he be-
42 lieves the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

JEFFERSON WILSON.

Sworn & subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

Enoch C. Bell, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all his debts and liabilities incurred by him, is over five thousand dollars.

E. C. BELL.

Sworn and subscribed this 9th day of April, 1858, before me

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

W. W. Leland, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

W. W. LELAND.

Sworn and subscribed this 9th day of April, 1858, before me.

R. MITCHELL, [SEAL.]
*Justice of the Peace.*

43 I certify that I have made due and diligent personal inquiry as to the ability of the sureties in this bond, and am satisfied that they are good and sufficient for the sum of twenty-five thousand dollars.

Given under my hand this the 12th day of April, A. D. 1858.

S. J. GHOLSON,
*Judge U. S. D. C. for Mississippi.*

*Certificate to copy.*

UNITED STATES OF AMERICA :

TREASURY DEPARTMENT,
*January* 26, 1874.

Pursuant to the act of Congress of the 22d February, 1849, I hereby certify that the annexed is a true copy of a bond the original of which is on file in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL OF DEPARTMENT.] WM. A. RICHARDSON,
*Secretary of the Treasury.*

Filed June 9th, 1874. G. R. Hill, clerk.

To the introduction of which the defendants objected on the ground that

said copy was not certified according to law, which objection was
44 sustained by the court, and said copy of said bond excluded from the jury as evidence; to which ruling of the court the attorney for the United States instantly excepted, and now excepts, and presents herewith his bill of exceptions, &c.

The attorney for the United States then moved the court to postpone the further consideration of said case for a few days, or to grant leave to withdraw the case from the jury and continue it, to enable him to procure the original of said bond or a copy thereof, certified according to the views of the court, which motion being understood by the court, it is by the court overruled, to which ruling of the court, in overruling said motion and in refusing to postpone or continue said case, the attorney for the United States instantly excepted, and now excepts, and presents herewith his bill of exceptions, &c.

The attorney for the United States then offered to read to the jury as evidence a certified transcript of the records and proceedings of the Treasury Department, showing the indebtedness of Miles H. Morris, in the words and figures following, to wit:

45 L. K. B. G. L. C. W. B. M.]

*Reconciling statement of the account of Miles H. Morris, late paymaster of U. S. Steamer Seminole, including his leave pay, from March 8, 1860, day of his settlement as paymaster of the Vandalia, to June 30, 1860, day of commencing duty on the Seminole; then sea pay from July 1, 1860, to March 12, 1861, day of discharge from the Seminole; then leave pay to June 1, 1861, day of his dismissal from the service, supplemental to his account, report 161, A. Bond, April 9, 1858.*

| | | | |
|---|---|---|---|
| Balance due United States, per office statement..... .. | | | $5, 923 60 |
| Thus explained: | | | |
| A. To clothing unaccounted for while on the Vandalia | | $749 62 | |
| Less following credits: | | | |
| By 60 days' pay of self for settling accounts of Vandalia ..... ..... | $164 38 | | |
| By short footing on acc't current of Vandalia..... ..... ..... | 14 50 | | |
| " excess of hospital fund charged self on Vandalia ..... ..... | 64 | | |
| | | 179 52 | |
| | | 570 10 | |
| B. To this sum of money unaccounted for while on the Seminole, being difference between amounts received and amounts paid out ..... ..... | | 2,767 16 | |
| Items in present settlement: | | | |
| C. To interest on the balance ($3,337.26) from Feb. 19, 1861, the last date upon which he received Government money, up to Jan'y 19, 1874, the | | | |

| | | |
|---|---|---|
| date of stating this account, being 12 years and 11 months, @ 6 % per annum ..... ..... | 2,586 34 | |
| | 5,923 60 | 5,923 60 |

S. J. W. TABOR, *Auditor.*

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
*January* 19, 1874.

46 M. C.]

Approved.

J. M. BRODHEAD,
*Comptroller.*

No. 2451.

*Statement of the account of Miles H. Morris, purser U. S. S. Vandalia.*

*Statement of the $\frac{3}{4}$ of Miles H. Morris, purser of the Vandalia, from 19th of May, 1858, to 6th Jan'y, 1860, and including his own pay to 7th March, 1860.*

DR.

PAY OF THE NAVY.

| | | | |
|---|---|---|---|
| To requis'n 5706..... ..... | | | $5,000 00 |
| " do. 5979..... | | | 7,000 00 |
| " C. C. Jackson, pr ..... | rep. 1831..... | | 1,349 95 |
| " requis'n 6207..... ..... ..... | | | 8,000 00 |
| " Jos. Smith, N. A..... | 1917..... | | 18 00 |
| " Geo. Loyall, " ..... ..... | 1911..... | | 125 00 |
| " do. " ..... | 1998..... | | 187 50 |
| " G. N. Sanders, " ..... | 2025..... | | 12 00 |
| " Jos. Smith, " ..... | 2102..... | | 45 00 |
| " requis'n 6672..... ..... | | | 14,000 00 |
| " Geo. Loyall, N. A..... | 2173..... | | 187 50 |
| " A. A. Belknap, pr ..... | 2175..... | | 50 00 |
| " requis'n 6844..... ..... | | | 5,000 00 |
| " C. C. Jackson, pr ..... | 2249..... | | 11,616 46 |
| " A. F. Ammidown, N. A..... | 2263..... | | 27 00 |
| " Baring Bros. and Co., " ..... | 2282..... | | 888 88 |
| " G. N. Sanders, " ..... | 2327..... | | 36 00 |
| " requis'n 7091..... ..... | | | 32,000 00 |
| " Geo. Loyall, " ..... | 2368..... | | 375 00 |
| " Wm. Badger, " ..... ... | 2391..... | | 18 00 |
| To G. N. Sanders, " ..... | 2400 ..... | | 24 00 |
| 47 To hos. fund ..... | | | 611 59 |
| " premium on bills on Barings..... | | | 91 12 |
| To do do on N. Dep't..... ..... | | | 200 00 |
| " S. stores, of N. S. K., and 10 per cent ..... | | | 313 02 |
| " E. C. Doran, per S. stores " ..... | | | 380 96 |

| | | | |
|---|---|---|---|
| " S. stores, of Ball | " | ..... | 66 82 |
| " do. of Gibson | " | ..... | 263 34 |
| " do. of Bourn | " | ..... | 59 93 |
| " C. C. Jackson, p.: | | | |
| Allot's..... | | 4,425 50 | |
| Checkage..... | | 17 99 | |
| | | | 4,443 49 |
| " Geo. Loyall, N. A. allotment .. | | ..... | 62 50 |
| " A. A. Belknap, p'r allot's..... | | | 20 00 |
| " J. S. Gulick, " " | | ..... | 405 00 |
| " Wm. E. Badger " " | | ..... | 78 00 |
| " G. N. Sanders, " " | | ..... | 18 00 |
| " J. D. Murray " " | | ..... | 9 00 |
| | | | 92,983 06 |
| To bal. per contra..... | | ..... | 5,863 05 |

CR.

PAY OF THE NAVY.

| | |
|---|---|
| By refunding requis'n 6418..... | 3,000 01 |
| " Do. 6460..... | 1,132 21 |
| " expenditures, per abstract..... | 82,740 75 |
| " G. H. White, p'r overpayments..... | 2 92 |
| " J. B. Rittenhouse " ..... | 72 60 |
| " Chas. Murray, p'r " ..... | 40 08 |
| " J. D. Murray, p'r s. stores and 10 per cent ..... | 131 45 |
| By bal ..... | 5,863 05 |
| | 92,983 06 |

48 PROVISIONS.

| | |
|---|---|
| To requis'n 5706..... | $3,000 00 |
| " provisions to officers' messes..... | 1,377 24 |
| " bal..... | 13,577 73 |
| | 17,954 97 |

PROVISIONS.

| | |
|---|---|
| Expenditures per abstract..... | 17,954 97 |
| | 17,954 97 |
| By bal. per contra ... ..... | $13,577 73 |

INCREASE AND REPAIRS.

| | |
|---|---|
| To requis'n 5706 | 5,000 00 |
| " do 5979 | 3,000 00 |
| | 8,000 00 |
| To bal. per contra | 6,303 95 |

INCREASE AND REPAIRS.

| | |
|---|---|
| By expenditures per abstract. | $1,696 05 |
| " bal | 6,303 95 |
| | 8,000 00 |

CONTINGENT.

| | |
|---|---|
| To requis'n 5706 | $2,000 00 |
| " bal | 356 53 |
| | 2,356 53 |

CONTINGENT.

| | |
|---|---|
| By expenditures per abstract | $2,356 53 |
| | 2,356 53 |
| By bal. per contra | 356 53 |

SURG'S' NECESSARIES.

| | |
|---|---|
| To requis'n 5706 | 1,190 00 |
| | 1,190 00 |
| To bal. per contra | 1,025 30 |

49 SURG'S' NECESSARIES.

| | |
|---|---|
| By expenditures per abstract | $164 70 |
| " bal | 1,025 30 |
| | 1,190 00 |

PAY OF M. CORPS.

| | |
|---|---|
| To C. C. Jackson, p'r rep. 2249 | $694 43 |
| " do allotments | 87 00 |
| " hos. fund | 95 23 |
| " bal | 3,114 25 |
| | 3,990 91 |

PAY OF M. CORPS.

| | |
|---|---|
| By expenditures per abstract | $3,990 91 |
| | 3,990 91 |
| By bal. per contra | 3,114 25 |

CLOTHING.

| | |
|---|---|
| To C. C Jackson, p'r rep. 1831 | $6,662 29 |
| " slops of N. S. K. and 10 per cent | 734 20 |
| " E. C. Doran, p'r slops and 10 per cent | 585 78 |
| | 7,982 27 |
| To bal. per contra | 4,866 31 |

CLOTHING.

| | |
|---|---|
| By expenditures per abstract | $2,761 98 |
| " J. D. Murray. p'r slops and 10 per cent | 353 98 |
| " bal | 4,866 31 |
| | 7,982 27 |

50 DUE UNITED STATES.

| | |
|---|---|
| Pay of the Navy | 5,863 05 |
| Increase, &c | 6,303 95 |
| Surg's necessaries | 1,025 30 |
| Clothing | 4,866 31 |
| | 18,058 61 |
| Net bal. due U. States | 1,010 10 |

DUE PURSER.

| | |
|---|---|
| Provisions | 13,577 73 |
| Contingent | 356 53 |
| Pay of M. Corps | 3,114 25 |
| | 17,048 51 |

TREASURY DEPARTMENT,
4th AUDITOR'S OFFICE, *June* 18, 1860.

2ND COMP. OFFICE, *June* 20, 1860.

M. CAMPBELL.

No. 4805.

*Statement of the account of Miles H. Morris, late purser U. S. S. Seminole, from July 1, 1860, to March 12, 1861.*

*Miles H. Morris, late p'r U. S. Navy, including his leave pay from March 8, '60, day to which his account was settled on Vandalia, to June 30, 1860; then sea duty pay as p'r of the U. S. steamer "Seminole" to March 12, 1861, when he was detached; then leave pay to June 1, 1861, day he was dismissed from service, in account with the U. States.*

DR.

51 PAY OF THE NAVY.

| | | | | | |
|---|---|---|---|---|---|
| | | To balance | 2451 | 5,863 | 05 |
| | | " Geo. Loyall | 2413 | 125 | |
| | | " " | 2459 | 125 | |
| | | " Geo. N. Sanders | 2505 | 1,375 | |
| | | " Geo. Loyall | 2541 | 1,062 | 50 |
| | | " Felix Senac | 2551 | 223 | 80 |
| | | " Wm. Badger | 2632 | 64 | 00 |
| | | " Wm. Flynn | 2662 | 255 | |
| 1861. | | | | | |
| April | 3. | " requis'n, 8139 | | 8,500 | |
| | | " Ammidown | 2681 | 170 | |
| | | " E. T. Dunn | 2678 | 7,000 | |
| May | 2. | " requis'n, 8218 | | 2,500 | |
| | | " Wm. F. Russell | 2692 | 1,548 | |
| | | " Wm. Badger | 2699 | 426 | |
| | | " H. F. Wendell | 2733 | 128 | |
| | | " Wm. Flynn | 2737 | 380 | |
| | | " J. O. Bradford | 2749 | 59 | 75 |
| | | " A. F. Ammidown | 2751 | 385 | |
| | | " W. F. Russell | 2757 | 1,057 | |
| | | " Geo. Loyall | 2759 | 1,612 | |
| | | " J. O. Bradford | 2761 | 342 | 13 |
| July | 22. | " requis'n, 8447, transfer | | 2,336 | 88 |
| | | " A. F. Ammidown | 2778 | 300 | |
| | | " W. Badger | 2786 | 876 | |
| | | " H. F. Wendell | 2802 | 32 | |
| | | " Wm. Flynn | 2792 | 550 | |
| | | " Wm. F. Russell | 2803 | 1,234 | |
| | | " H. G. S. Key | 2811 | 450 | |
| | | " W. F. Russell | 2868 | 126 | |
| | | " E. L. Norton | 2857 | 115 | |
| | | Carried forward | | 39,221 | 11 |
| 52 | | To amount brought forward | | $39,221 | 11 |
| | | " H. G. S. Key | 2909 | 360 | |
| | | Barings Bros. and Co | 2930 | 6,222 | 22 |
| | | Wm. Badger | 3030 | 212 | |
| | | W. P. Ewing | 3047 | 345 | |
| | | S. P. Brown | 2944 | 310 | |

| | | | |
|---|---|---|---|
| J. S. Chambers | 3101 | | 584 |
| I. Henderson | 3125 | | 386 |
| E. L. Norton | 3145 | | 15 |
| W. P. Ewing | 3137 | | 65 |
| W. H. Macomb | 3225 | | 350 |
| J. S. Chambers | 3265 | | 314 |
| S. P. Brown | 3263 | | 395 |
| I. Henderson | 3312 | | 828 |
| J. S. Chambers | 3332 | | 100 |
| Geo. Loyall | 3341 | | 560 |
| L. Lamm | 3378 | | 20,000 |
| S. P. Brown | 3434 | | 269 |
| Louis Sands | 3441 | | 157 |
| I. Henderson | 3496 | | 776 |
| J. S. Chambers | 3516 | | 80 |
| " | 3656 | | 70 |
| " | 3766 | | 10 |
| C. C. Jackson | 3805 | | 6 |
| I. Henderson | 3880 | | 339 |
| " | 4031 | | 134 |
| " hos. fund, p'r rolls, $202.93, self 1 mo., .20 | | | 203 13 |
| " excess cr. by Bradford, rep't 2761, ovp't | | $9 22 | |
| " S. stores rec'd of N. S. K., $1,648.16; gain $4,175 | | 1,689 91 | |
| " premium on ex. on Baring Bros.. | | 365 78 | |
| " cash of Walker for sword-belt.. | | 4 00 | |
| | | | 2,068 91 |
| | | | 74,380 83 |
| To balance per contra | | | $807 83 |

53 PAY OF THE NAVY, CR.

| | | | |
|---|---|---|---|
| 1860. | | | |
| By J. D. Gibson | 2455 | | 250 00 |
| Aug't 2. " Requis. 6560, refunding | | | 389 94 |
| " J. O. Bradford | 2761 | | 35 48 |
| " J. H. Watmaugh | 2775 | | 160 00 |
| " J. V. B. Bleeker | 2841½ | | 32 |
| " Ch's Steedman | 2869 | | 18 |
| " S. P. Carter | 3102 | | 425 |
| " S. P. Brown | 2944 | | 510 |
| " Louis Sands | 3441 | | 22,810 71 |
| " W. H. Macomb | 3225 | | 340 00 |
| Carried forward | | | 24,971 13 |
| By amount bro't forward | | | $24,971 13 |

| | | | |
|---|---|---|---|
| | " expend's, per abstract | 27,686 | 10 |
| | " I. Henderson, allot's; twice cr. him to be taken off his. rec'g statement | 160 | 00 |
| | " Requis'n to effect a transfer | 20,755 | 31 |
| | " Balance due U. States | 807, | 83 |
| | | 74,380 | 37 |

PROVISIONS OF THE NAVY, DR.

| | | | | | |
|---|---|---|---|---|---|
| 1861. | | | | | |
| May | 2. | To requis'n 8218, cash | | 6,000 | 00 |
| | | " Barings Bros. and Co., bill | 2930 | 2,666 | 66 |
| | | " Requis'n to effect a transfer | | 12,106 | 02 |
| | | | | 20,772 | 68 |

PROVISIONS, CR.

| | | | | |
|---|---|---|---|---|
| By balance | 2451 | $13,577 | 73 |
| " Expend's, per abstract | | 7,194 | 95 |
| | | 20,772 | 68 |

54 CONTINGENT OF THE NAVY, DR.

| | | | | | |
|---|---|---|---|---|---|
| 1860. | | | | | |
| Oct. | 3. | To requis'n 7,720, cash | | $2,166 | 00 |
| | | " Barings Bros. and Co | 2930 | 2,222 | 22 |
| | | " premium on ex. on Barings | | 130 | 48 |
| | | | | 4,518 | 70 |

CONTINGENT.

| | | | |
|---|---|---|---|
| By balance | 2451 | 356 | 53 |
| " expend's, per abstract | | 983 | 38 |
| " requis'n to effect transfer | | 3,178 | 79 |
| | | 4,518 | 70 |

CONSTRUCTION (INCREASE) AND REPAIRS.

| | | | |
|---|---|---|---|
| To balance | 2451 | $6,303 | 95 |
| | | 6,303 | 95 |

CONSTRUCTION AND REPAIRS.

| | | | |
|---|---|---|---|
| By expend's, per abstract | | $5,101 | 73 |
| " requis'n to effect transfer | | 1,202 | 22 |
| | | 6,303 | 95 |

SURGEON'S NECESSARIES.

| | | | |
|---|---|---|---|
| To balance | 2451 | | 1,025 30 |
| | | | 1,025 30 |

SURGEON'S NECESSARIES.

| | | |
|---|---|---|
| By expend's, per abstract | | $79 65 |
| " requis'n to effect transfer | | 945 65 |
| | | 1,025 30 |

55 PAY OF MARINE CORPS, DR.

| | | | |
|---|---|---|---|
| To W. Badger | 2632 | | $10 |
| " W. F. Russell | 2692 | | 22 |
| " W. Badger | 2699 | | 15 |
| " W. F. Russell | 2757 | | 33 |
| " Geo. Loyall | 2759 | | 40 |
| " W. Badger | 2786 | | 15 |
| " W. F. Russell | 2803 | | 44 |
| " W. G. Russell | 2868 | | 11 |
| " J. S. Chambers | 3101 | | 15 |
| " I. Henderson | 3125 | | 11 |
| " J. S. Chambers | 3265 | | 15 |
| " I. Henderson | 3312 | | 33 |
| " J. S. Chambers | 3332 | | 15 |
| " Geo. Loyall | 3341 | | 8 |
| " I. Henderson | 3469 | | 44 |
| " J. S. Chambers | 3516 | | 15 |
| " " | 3656 | | 15 |
| " " | 3766 | | 5 |
| " hos. fund, per marine roll | | | 21 84 |
| " requis'n to effect transfer | | | 3,403 75 |
| | | | 3,791 59 |

PAY OF MARINE CORPS.

| | | | |
|---|---|---|---|
| By balance | 2451 | | 3,114 25 |
| " Louis Sands | 3441 | | 190 |
| " expend's, per abstract | | | 487 34 |
| | | | 3,791 59 |

FUEL FOR THE NAVY, DR.

| | |
|---|---|
| To requis'n to effect transfer | 10,572 20 |

FUEL FOR THE NAVY.

| | |
|---|---|
| By expend's, per abstract | 10,572 20 |

56 CLOTHING FOR THE NAVY, DR.

| | | |
|---|---|---|
| To balance | 2451... | $4,866 31 |
| " Felix Senac | 2551... | 124 87 |
| " slops and 10 % rec'd from N. S. K | | 5,438 91 |
| | | 10,430 09 |
| To balance per contra | | 2,529 43 |

CLOTHING.

| | | | |
|---|---|---|---|
| 1861. | | | |
| July 22. | By requis'n 6714, transfer | | 2,336 88 |
| | " Louis Sands | 3441.... | 3,158 74 |
| | " expend's, per abstract | | 2,405 04 |
| | Balance due U. States | | 2,529 43 |
| | | | 10,430 09 |
| | Balance produced—pay Navy | | 807 83 |
| | Total balance due U. States | | 3,337 26 |

D. HIGGINS.

TREASURY DEP'T, 4TH AUDITOR'S OFFICE,
*March* 15, 1866.

2ND COMP. OFFICE, *Ap'l* 2, 1866.

M. CAMPBELL.

No. 161 A.

*Statement of the account of Miles H. Morris, is paym'r U. S. N.—Supplementary to report* 4805.

57 *M. H. Morris, late paymaster U. S. N., to close bond of April* 9, 1858.

PAY OF THE NAVY.

| | | |
|---|---|---|
| To report | #4805... | 807 83 |
| " J. C. Eldridge | 5702... | 14 00 |
| | | 821 83 |

PAY OF THE NAVY.

| | |
|---|---|
| By J. C. Eldredge, N. ag't, allot | 14 00 |
| " M. H. Morris, defaulter | 807 83 |
| | 821 83 |

CLOTHING.

| | | |
|---|---|---|
| To report | #4805... | 2,529 43 |

CLOTHING.

By M. H. Morris, defaulter..... $2,529 43

For items making up the amount charged Morris as defaulter, see reconcilement, on page 463, No. 5.

A. J. B.
A. J. BARTLETT.

TREASURY DEPARTMENT, 4TH AUDITOR'S OFFICE,
*January* 4, 1871.

2ND COMPTROLLER'S OFFICE,
*Jan'y* 6, 1871.

MASON CAMPBELL.

58 No. 1602 A.

*Statement of the account of Miles H. Morris, late pay'r U. S. Navy, supplementary to report* 161 *A.—L. K. Brown, clerk.*

*Miles H. Morris, late paymaster U. S. N., in account with the United States, supplementary to report* 161 *A. Bond April* 9, 1858.

DR.

PAY OF THE NAVY.

70–1.

| | |
|---|---|
| To M. H. Morris (161 A) | 807 83 |
| " adjustment app | 1,779 81 |
| | 2,587 64 |
| To balance per contra | $2,587 64 |

PAY OF THE NAVY.

70–1.

| | |
|---|---|
| By balance | $2,587 64 |
| | 2,587 64 |

CLOTHING OF THE NAVY.

| | |
|---|---|
| To M. H. Morris (161 A) | 2,529 43 |
| | 2,529 43 |
| To balance per contra | 749 62 |

CLOTHING OF THE NAVY.

| | |
|---|---|
| By adjustment app | 1,779 81 |
| " balance | 749 62 |
| | 2,529 43 |

MISCELLANEOUS RECEIPTS.

To interest on the balance ($3,337.26) from Feb. 19, 1861, the last date upon which he received Government money, up to January 19, 1874, the date of stating this account, being 12 years and 11 months, @ 6 % per annum..... 2,586 34

59 To balance per contra..... 2,586 34

MISCELLANEOUS RECEIPTS.

By balance.. ..... 2,586 34

L. K. BROWN, *Clerk.*

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
*January* 19, 1874.
2ND COMP. OFFICE, *Jan'y* 20, 1874.

MASON CAMPBELL.

*Abstract of expenditures in the a/c of Miles H. Morris, p'r of the Vandalia, from 19th May, 1858, to 6th Jan'y 1860, including his own pay to 7th March, 1860.*

PAY OF THE NAVY.

Hos. fund, 611.39. 20 self.

| | |
|---|---|
| Expenditures per roll ..... | $82,034 52 |
| 60 days pay of self to 7' March, 1860, less $164.38 paid by certificate Feb. 17, 1860..... | 164 38 |
| S. stores for ship's use and 10 per cent..... | 34 40 |
| Do. to Gibson " ..... | 56 06 |
| Do. to Eldredge " ..... | 451 39 |
| | 82,740 75 |

PROVISIONS.

Cash paid:

| | | |
|---|---|---|
| Voucher | 2 ..... | 518 00 |
| | 5 ..... | 613 80 |
| | 16 ..... | 61 05 |
| | 17 ..... | 38 47 |
| | 18 ..... | 24 00 |
| | 21 ..... | 579 90 |
| | 22 ..... | 287 70 |
| 60 | 23 ..... | 217 50 |
| | 24 ..... | 156 00 |
| | 28 ..... | 30 00 |
| | 36 ..... | 119 68 |
| | 38 ..... | 19 68 |
| | 41 ..... | 111 84 |
| | 44 ..... | 467 40 |
| | 45 ..... | 50 00 |

| | | |
|---|---|---|
| 48 | | 63 00 |
| 50 | | 101 25 |
| 53 | | 13 00 |
| 61 | | 6 27 |
| 70 | | 1,947 30 |
| 71 | | 840 00 |
| 72 | | 965 61 |
| Expend per roll | 9,667 12 & 1,056 40 | |
| | | 17,954 97 |

INCREASE AND REPAIRS.

Cash paid:

| | | |
|---|---|---|
| Voucher 1 | | $53 45 |
| 3 | | 220 00 |
| 4 | | 15 00 |
| 8 | | 170 00 |
| 9 | | 20 00 |
| 18 | | 27 60 |
| 22 | | 50 00 |
| 24 | | 117 00 |
| 33 | | 22 54 |
| 42 | | 7 75 |
| 45 | | 10 00 |
| 49 | | 38 00 |
| 53 | | 60 00 |
| 55 | | 21 00 |
| 60 | | 115 30 |
| 64 | | 325 00 |
| 61 67 | | 52 00 |
| 69 | | 20 75 |
| 72 | | 350 66 |
| | | 1,696 05 |

CONTINGENT.

Cash paid:

| | | |
|---|---|---|
| Lighterage Voucher 2 | | 49 50 |
| Do 3 | | 36 00 |
| Boat hire 6 | | 54 00 |
| Freight 7 | | 7 75 |
| Do 10 | | 93 64 |
| Travel of self 11 | | 224 50 |
| Pilotage 14 | | 20 00 |
| Expenses on shore 15 | | 2 50 |
| Freight 16 | | 5 00 |
| Pilotage 19 | | 24 00 |
| Expenses on shore 20 | | 5 50 |
| App. of cotton, 35.60, & of Potter, $38.. | 21½ | 73 60 |

| | | | | |
|---|---|---|---|---|
| Lighterage | | 24 | ..... | 15 00 |
| Pilotage | | 25 | ..... | 24 00 |
| App. of Lindsey | | 28½ | ..... | 30 00 |
| App. of Smith, 2d | | " | ..... | 40 00 |
| App. of Baker | | " | ..... | 40 00 |
| Pilotage | | 29 | ..... | 20 00 |
| Do | | 30 | ..... | 8 00 |
| Do | | 31 | ..... | 20 00 |
| Charter of sloop, &c | Voucher | 32 | ..... | 33 00 |
| App. of Smith, 2nd, and Coleman | | 33½ | ..... | 20 00 |
| Charter of schooner, &c | | 34 | ..... | 250 01 |
| App. of Coleman | | 34½ | ..... | 20 00 |
| Expenses of guides, &c | | 35 | ..... | 10 00 |
| Pilotage | | 37 | ..... | 20 00 |
| App. Weekes | | 38½ | ..... | 16 00 |
| 62 Travel, &c., of Ramsey | | 39 | ..... | 25 50 |
| Transportation of sick men | | 40 | ..... | 21 00 |
| Pilotage | | 46 | ..... | 20 00 |
| Do | | 47 | ..... | 10 00 |
| Passage of Sinclair, capt's clerk | | 52 | ..... | 230 00 |
| Pilotage | | 53 | ..... | 48 00 |
| Boat hire | | " | ..... | 5 00 |
| Transporting invalids | | 54 | ..... | 104 25 |
| Travel of Hunt and Lyons | | 56 | ..... | 130 00 |
| Do. do. | | 57 | ..... | 50 00 |
| Passage of Sinclair | | 58 | ..... | 25 00 |
| Freight | | 62 | ..... | 15 03 |
| Stationery | | 63 | ..... | 9 75 |
| Passage of Cook | | 66 | ..... | 25 00 |
| Hire of steam tug | | 68 | ..... | 100 00 |
| Boat hire | | 70 | ..... | 208 00 |
| Bags, barrels, cartage, &c | | 72 | ..... | 98 00 |
| Travel of self | | 74 | ..... | 40 00 |
| Postage | | 76 | ..... | 10 00 |
| | | | | 2,356 53 |

SURGEON'S NECESSARIES.

Cash paid:

| | | |
|---|---|---|
| Voucher 12 | ..... | 13 25 |
| 13 | ..... | 7 55 |
| 26 | ..... | 2 00 |
| 27 | ..... | 21 00 |
| 40 | ..... | 14 00 |
| 43 | ..... | 31 80 |
| 51 | ..... | 10 00 |
| 59 | ..... | 6 00 |
| 65 | ..... | 49 10 |
| 73 | ..... | 10 00 |
| | | 164 70 |

Expenditure per roll ..... 3,990 59

CLOTHING.

Slops for ship's use, &c., 10 per cent..... 2 60
Do. turned into store " ..... ..... 2,759 38

2,761 98

*Abstract of clothing and small stores, Miles H. Morris, purser U. S. S. Vandalia.*

*Slop and S. store a/c of Miles H. Morris, purser of U. S. ship, Vandalia.*

| Dr. | | Clothing. | Pay. |
|---|---|---|---|
| To C. C. Jackson, slops | 6,056 63 | | |
| 10 per cent | 605 66 | | |
| | | $6,662 29 | ..... |
| " Jesse Sawyer, slops | 667 45 | | |
| 10 per cent | 66 75 | | |
| | | 734 20 | ..... |
| " E. C. Doran, p'r slops | 532 53 | | |
| 10 per cent | 53 25 | | |
| | | 585 78 | ..... |
| " C. C. Jackson, p'r s. stores | 1,227 23 | | |
| 10 per cent | 122 72 | | |
| | | ..... | 1,349 95 |
| " Jesse Sawyer, N. S. K., s. stores | 284 56 | | |
| 10 per cent | 28 46 | | |
| | | ..... | 313 02 |
| " W. H. Ball, s. stores | 60 75 | | |
| 10 per cent | 6 07 | | |
| | | ..... | 66 82 |
| " E. C. Doran, p'r s. stores | 152 89 | | |
| 10 per cent | 15 29 | | |
| | | ..... | 168 18 |
| " Do. s. stores | 193 44 | | |
| 10 per cent | 19 34 | | |
| | | ..... | 212 78 |
| 64 " J. D. Gibson, s. stores | 239 40 | | |
| 10 per cent | 23 94 | | |
| | | ..... | 263 34 |
| " J. N. Bourn, s. stores | 34 48 | | |
| 10 per cent | 5 45 | | |
| | | ..... | 39 93 |
| | | 7,982 27 | 2,434 02 |
| Cr. | | | |
| By J. D. Murray, p'r slops | 321 80 | | |
| 10 per cent | 32 18 | | |
| | | 353 98 | ..... |
| " J. C. Eldredge, p'r slops | 2,508 53 | | |
| 10 per cent | 250 85 | | |
| | | 2,759 38 | ..... |
| " slops for ship's use | 2 36 | | |
| 10 per cent | 24 | | |
| | | 2 60 | ..... |
| " issues per roll, slops (10 per cent added) | | 4,116 69 | ..... |
| " J. D. Murray p'r s. stores | 119 50 | | |
| 10 per cent | 11 95 | | |
| | | ..... | 131 45 |
| " J. D. Gibson, s. stores | 50 96 | | |
| 10 per cent | 5 10 | | |
| | | ..... | 56 06 |
| " J. C. Eldredge, s. stores | 410 35 | | |
| 10 per cent | 41 04 | | |
| | | ..... | 451 39 |
| " s. stores for ship's use | 31 27 | | |
| 10 per cent | 3 13 | | |
| | | ..... | 34 40 |
| " issues per roll, s. stores | | ..... | 1,710 66 |
| " deficit in slops and s. stores | | 749 62 | 50 56 |
| | | 7,982 27 | 2,434 02 |

*Abstract of expenditures, Miles H. Morris, paymaster, U. S. S. Seminole.*

65 *Abstract of credits in the ⅝ of Miles H. Morris, p'r U. S. S. Seminole.*

PAY OF THE NAVY.

| Vou. | | | | |
|---|---|---|---|---|
| 30. | By paid Lowry—miss kettles | | | $22 50 |
| | " expenses per crew-roll | | | 26,494 53 |
| | " allot. of Kerhn, paid after checking was stopped. It was trans'd from N. S. K. to Phil. and Chambers, paid after stopped | | | 27 |
| | " allot. of J. B. Franklin, O. S. He was tr'd to Sands, who trans'd him to Etting, Phila. S. K. Etting checked nothing, but Henderson continued to charge | | | 70 |
| | " allot. of T. L. Galloway, C. F., transferred to Sands & short. checked by him | | | 15 |
| | " allot. of G. D. Dods, M, transferred from C. C. Jackson; to be sent home sick. He stayed abroad only 14 days and went to N. York. Jackson was charged $6. I recredit it | | | 6 |
| | " S. stores issued to ship use | | | 34 72 |
| | " discount on bills of ex. on the Dep't | | | 353 25 |
| | " Balance due yourself on roll | $540 36 | | |
| | " do. from May 1, 1861, to June 1, '61, day of your dismissal from service—32 days, at $14.00 | 122 74 | | |
| | | | | 663 10 |
| | | | | 27,686 10 |
| | " I. Henderson, ngt., these allot's twice to his credit, viz: | | | |
| | Geo. Peck, P. A. S. | $90 | | |
| | DeWitt Montgomery, C. H. | 14 | | |
| | Thos. Galloway, C. H | 30 | | |
| | John Dartnell, 2' C. F. | 18 | | |
| | J. F. McEvoy, boy | 8 | | |
| | Off Henderson's rec'g statement | | | 160 00 |

PAY OF MARINE CORPS.

| | | | |
|---|---|---|---|
| | By expend's per marine rolls | | $487 34 |

66 PROVISIONS OF THE NAVY.

| Voucher. | | | | |
|---|---|---|---|---|
| 1. | By paid Fabens, | beef, &c. | | $31 50 |
| 3. | " | water | | 6 |
| 6. | Pliney, | beef, &c | | 15 |
| 9. | Dakorte, | beef, &c | | 297 84 |
| 12. | Smith, | " | | 19 95 |
| 18. | Raymond, | " | | 246 05 |

| | | | |
|---|---|---|---|
| 22. | Noah, " | 1,505 | 00 |
| 26. | Coelho, water | 59 | 50 |
| 28. | " beef, &c | 210 | 10 |
| 32. | Lowry, " | 916 | 40 |
| | " expend's per crew-roll | 3,479 | 24 |
| | " " " marine roll | 215 | 62 |
| | " discount on bill on Navy Dep't | 192 | 75 |
| | | 7,194 | 95 |

CONSTRUCTION AND REPAIRS.

| | | | |
|---|---|---|---|
| 2. | By paid Ember, oil | $92 | |
| 9. | Dokoche, oil, &c | 404 | 75 |
| 12. | Smith, wood | 6 | 50 |
| 15. | Bowman, cast-iron sector | 150 | |
| 16. | Borges, oil, &c | 136 | 50 |
| 18. | Raymond, wood | 27 | |
| 21. | McLellan, topmast, &c | 722 | |
| 22. | Noah, repairs and materials therefor | 2,410 | 92 |
| 26. | Ortez, furniture for cabin | 51 | 75 |
| 26. | Coelho, oil, paints, &c | 271 | 27 |
| 27. | Sloan, repairing propeller | 442 | |
| 30. | Lowry, wood | 187 | 04 |
| | | 5,101 | 73 |

FUEL FOR NAVY.

| | | | |
|---|---|---|---|
| 3. | By paid Fabens, coal, 200 ton', @ $10. 80 | $2,160 | |
| 7. | Dakoster, " 180 " @ $26 | 4,680 | |
| 11. | Singlehurst, " 108½ " @ $15 | 1,627 | 50 |
| 14. | Scott, " 100 " @ 15 | 1,500 | |
| 67 22. | Noah, " 9 @ | 117 | 20 |
| 23. | Cathcart, labor, &c., shipping coal | 222 | 50 |
| 26. | Coelho, coal | 70 | |
| 30, | Lowry, coal and shipping | 195 | |
| | | 10,572 | 20 |

CONTINGENT NAVY.

| | | | |
|---|---|---|---|
| 4. | By paid Bordes, pilotage | $16 | |
| 5. | Norton, repairs to watch | 5 | |
| 8. | McGrath, pilotage | 66 | |
| 12. | Smith, " | 13 | 50 |
| 13. | Percina, " | 312 | |
| 17. | Hitch, " | 88 | 38 |
| 18. | Raymond, boat hire | 20 | |
| 20. | Norris, repair sextant | 7 | 50 |
| 24. | Coster, pilotage | 48 | |
| 28. | Coelho, boat hire | 18 | |
| 30. | Lowry, freight and pilotage | 89 | |
| 31. | Folman, passages to N. York | 300 | |
| | | 983 | 38 |

SURGEON'S NECESSARIES.

| | | | |
|---|---|---|---|
| 10. | By paid Dr. Limar, medicines | $31 | 50 |
| 19. | Kuhn, hos. appl's | 7 | 40 |
| 28. | Crandall, medicines | 40 | 75 |
| | | 79 | 65 |

CLOTHING THE NAVY.

| | | | | |
|---|---|---|---|---|
| By | expend's | per crew-roll | $2,167 | 81 |
| " | " | per marine-roll | 31 | 48 |
| " | " | issued for ship's % | 3 | 15 |
| " | " | allowed for loss | 202 | 60 |
| | | | 2,405 | 04 |

68 *Certificate to %.—Transcript certificate.*

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
*Washington, D. C., Feb'y* 11, 1881.

Pursuant to section 886 of the Revised Statutes of the United States, I, Charles Beardsley, Fourth Auditor of the Treasury Department, do hereby certify that the annexed is a transcript of the books and proceedings of the Treasury Department in account with Miles H. Morris, late paymaster in the U. S. Navy, under bond of April 9, 1858.

CHARLES BEARDSLEY, *Auditor.*

Be it remembered that Chas. Beardsley, esq., who certified the annexed transcript, is now, and was at the time of doing so, Fourth Auditor of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John Sherman, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this eleventh day of February, in the year of our Lord 1881.

[SEAL OF DEPARTMENT.] JOHN SHERMAN,
*Secretary of the Treasury.*

Filed February 22, 1881.

G. R. HILL, *Clerk.*

To the reading of which transcript as evidence to the jury the defendants objected on the ground that said transcript was not certified as required by law, which objection, being understood by the court, is by the
69 court sustained, and said transcript not allowed to be read to the jury as evidence; to which ruling of the court in sustaining said objection, and in refusing to allow said transcript to be read to the jury as evidence, the attorney instantly excepted, and now excepts, and presents herewith this his bill of exceptions, &c.

There being no further evidence the court instructed the jury to render a verdict for the defendants, which was accordingly done.

The attorney for the United States then made the following motion to set aside the verdict of the jury & to grant a new trial, in the words & figures following, to wit: (The motion here referred to will be found recorded on page 38 of the record.) And the said motion for a new trial coming on to be heard the attorney for the United States offered in evidence in support of said motion the copy of the bond sued on, and the transcript of the record of the proceedings of the Treasury Department, showing the account of Miles H. Morris, which were certified since the trial of this cause, which are in the words and figures following, to wit: (The transcript of the record of the Treasury Department he referred to will be
70 found copied into the record, beginning on page 45 hereof, and the certificate to such transcript filed herein since the trial is in the words & figures following, to wit:

*Cert. to last transcript.—Transcript certificate.*

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
*Washington, D. C., July 9, 1881.*

Pursuant to section 886 of the Revised Statutes of the United States, I, Charles Beardsley, Fourth Auditor of the Treasury Department, charged by law with the examination of the accounts of the Navy Department, do hereby certify that the annexed is a transcript from the books and proceedings of the Treasury Department in the accounts of Miles H. Morris, as purser of the United States Navy, under his official bond dated April 9, 1858, a copy of which, certified and authenticated according to law, is annexed to the said transcript.

CHARLES BEARDSLEY, *Auditor.*

Be it remembered that Chas. Beardsley, esq., who certified the annexed transcript, is now, and was at the time of doing so, Fourth Auditor of the Treasury of the United States, and that full faith and credit are due to his official attestation; and that the transcript so hereto annexed is hereby authenticated under the seal of the Treasury Department.

71 In testimony whereof I, William Windom, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this ninth day of July, in the year of our Lord 1881.

[SEAL OF DEPARTM'T] WILLIAM WINDOM,
*Secretary of the Treasury.*

Filed July 13th, 1881.

G. R. HILL, *Clerk.*

And the copy of the bond herein filed on the 13' July, '81, & referred to above, is identically the same as that recorded on page 40 of this record, except the certificate thereto, which said certificate to the one just filed is in the words & figures following, to wit:

*Certificate to bond.—Transcript of certificate.*

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
*Washington, D. C., July* 9, 1881.

Pursuant to section 886 of the Revised Statutes of the United States, I, Charles Beardsley, Fourth Auditor of the Treasury Department, charged with the examination of the accounts of the Navy Department, do hereby certify that the annexed is a true copy of the original bond of Miles H. Morris, as purser of the United States Navy, on file in the Treasury Department, relating to the settlement of the account between the
72 United States and the said Miles H. Morris, as purser aforesaid.

CHAS. BEARDSLEY, *Auditor.*

Be it remembered that Chas. Beardsley, esq., who certified the annexed copy, is now, and was at the time of doing so, Fourth Auditor of the Treasury of the United States, and that full faith and credit are due to his official attestations, and that the said copy is hereby authenticated under the seal of the Treasury Department.

In testimony whereof I, William Windom, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this ninth day of July, in the year of our Lord 1881.

[S'L OF DEPARTM'T.] WILLIAM WINDOM.
*Secretary of the Treasury.*

Filed July 13th, 1881.

G. R. HILL, *Clerk.*

Which motion for a new trial, being understood by the court, is by the court overruled, and a new trial refused; to which ruling of the court, in overruling said motion and in refusing to grant a new trial, the attorney for the United States instantly excepted, and now excepts, & presents
73 this his bill of exceptions, &c.

To all of which said several rulings of the court the attorney for the United States presents this his bill of exceptions, and prays that the same may be signed, sealed, and made a part of the record, which is accordingly done.

Given under my hand and seal this the 13th day of August, 1881.

R. A. HILL, *Judge.* [SEAL.]

Filed 15th Aug., 1881.

G. R. HILL, *Clerk.*

The following is the petition for writ of error thereupon filed, to wit:

*Pet. for writ of error.*

District court of the United States for the northern district of Mississippi.

UNITED STATES
*v.* } No. 987.
R. A. PIERSON ET AL.

To the Hon. George R. Hill, clerk of said court:

The petition of G. C. Chandler, U. S. attorney for the northern district

of Mississippi, shows to the clerk that at the June term, 1881, of the district court of the United States for the northern district of Mississippi, a final judgment was rendered by the court in favor of the defendants in the above stated case of United States v. R. A. Pierson et als., and that the United States feels aggrieved by said judgment, and therefore the said attorney prays for an appeal to the Supreme Court, to be held on the 3rd Monday of October, 1881, that the said judgment may be revised & reversed, and as, &c.

G. C. CHANDLER,
*U. S. Attorney.*

Filed Aug. 15th, 1881.

G. R. HILL, *Clerk.*

74 *Certificate to record.*

UNITED STATES OF AMERICA.

*Northern District of Mississippi.*

I, G. R. Hill, clerk of the district court of the United States for said district, do hereby certify that the foregoing pages of this record, to which this certificate is attached, contain a full, true, perfect, and correct transcript of the proceedings had in said court, as the same now appears of record and upon the file in my office, in the following cause, to wit, The United States vs. R. A. Pierson et als.

In testimony whereof I have hereunto set my name and affixed the seal of said court at office, at Oxford, this the 14' day of September, A. D. 1881.

[SEAL.] G. R. HILL, *Clerk.*

75 *Writ of error.*

UNITED STATES OF AMERICA.

The President of the United States to the honorable Robert A. Hill, judge of the district court of the United States for the northern district of Mississippi, greeting:

Because in the record and proceedings as also in the rendition of the plea which is in said district court before you between the United States, plaintiff in error, and R. A. Pierson et al., defendants in error, a manifest error hath happened to the great damage of the said United States, plaintiff in error, as by its complainant appears; we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ so that
76 you have the same at Washington on the second Monday of October next, in the Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this 10th day of September, in the year of our Lord one thousand eight hundred & eighty-one.

[SEAL.]

G. R. HILL,
*Clerk of the District Court of the United States for the Northern District of Mississippi.*

Filed Sept. 10th, 1881.

G. R. HILL, *Clerk.*

Executed by transmitting herewith transcript of the record called for.

G. R. HILL,
*Clerk of said Court.*

77 THE UNITED STATES OF AMERICA.

District court of the United States for the northern district of Mississippi.

To E. C. Bell & Jefferson Wilson, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Wasnington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the district court of the United States for the northern district of Mississippi, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said United States, as in said writ mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 10th day of September, in the year of our Lord 1881.

R. A. HILL,
*Judge of said District Court.*

78 Executed this day on H. A. Barr, as attorney for E. C. Bell & Jefferson Wilson. This September 12th, 1881.

J. L. MORPHIS,
*U. S. Marshal,*
By S. M. HOWRY,
*Dep. Marshal.*

79 *Opinion of court on motion for new trial.*

In the district court of the United States for the northern district of Mississippi, June term, 1881.

UNITED STATES
*v.*
R. A. PIERSON & OTHERS.

The questions for decision arise upon plaintiff's motion to set aside the verdict of the jury and judgment rendered thereon at present term of the court, and to award a new trial of this cause.

The several grounds for the motion will be considered in the order stated.

1st. Because the court refused to allow the copy of the bond sued upon to be read in evidence. The answer is that it was not certified by the proper auditor of the Treasury to be a true copy of the original bond on file as required by section 886, Revised Code. (See also United States vs. P. , 12 Otto, 548.)

80 2d. Because the court erred in refusing to allow the transcript and proceedings of the Treasury Department showing the indebtedness of said Morris to be read in evidence. The reply to which is, that the same was not certified to under the seal of the Treasury Department, as required by law. The certificate of Fourth Auditor is not under the seal of the Department.

The certificate of the Secretary of the Treasury that Beardsley was 4' Auditor of the Treasury has annexed to it the seal of the Department, but it in no way authenticates the transcript under the seal of the Department, as is attempted to be done under the certificate of the Secretary of the Treasury, made to said transcript on the 9' day of July, 1881, after this verdict and judgment was had.

3rd. That the court erred in refusing, under the circumstances, to allow the United States to withdraw the case from the jury, and also in refusing to allow a postponement of the further consideration of the case to allow plaintiffs to procure the original bond, or a copy thereof, certified according to the views of the court.

81 To this the reply is that this cause has been pending in the court since the 22' October, 1866, and has been repeatedly continued to enable the plaintiffs to obtain a proper record. At the last term ot the court the case was withdrawn from the jury and the cause continued to the present term under the express agreement that the cause would be finally disposed of at the present term, and no further delay claimed for the want of a properly certified transcript of the papers and proceedings. It is due to the present district attorney to say that there has been no delay or fault upon his part.

This case is part of the case of the United States v. Pierson, above referred to, and on the same bond. The principal in the bond died long since insolvent, and to longer continue the cause against his sureties, who know nothing of the state of the accounts, would be unjust to them; therefore the motion will be overruled.

R. A. HILL, *Judge*.

Filed 15th Aug., 1881.

G. R. HILL, *Clerk*.

I, G. R. Hill, clerk of the district court of the United States, for the northern district of Mississippi, do hereby certify that the foregoing 3 pages contain a true and complete copy of the original opinion of the court as the same appears on the files in said court.

Witness my hand and the seal of said court. at Oxford, Miss., this the 14' day of Sept., 1881.

[SEAL.] G. R. HILL, *Clerk*.

(Indorsement on cover:) No. 294. The United States, plaintiff in error, vs. E. C. Bell and Jefferson Wilson. N. Mississippi D. C. U. S. Filed September 17, 1881.

111-477
OFFICE SUPREME COURT U.S.
FILED
MAR 31 1884
JAS. H. McKENNEY, Clerk.

# In the Supreme Court of the United States.

OCTOBER TERM, 1883.

THE UNITED STATES, PLAINTIFF IN error,
*vs.*
E. C. BELL AND JEFFERSON WILSON. } No. 294.

## BRIEF FOR THE UNITED STATES.

# In the Court of Claims of the United States.

OCTOBER TERM, 1883.

THE UNITED STATES, PLAINTIFF IN error,
*vs.*
E. C. BELL AND JEFFERSON WILSON. } No. 294.

## BRIEF FOR THE UNITED STATES.

This is an action against the sureties in the official bond of the late Miles H. Morris, a purser in the Navy.

The breaches laid are (1) that Morris had converted to his own use $10,000 of public money which had come to his hands as purser; (2) that he received a lot of clothing of the value of $10,000 to be disposed of according to law, which, however, he had converted to his own use; and (3) that on the 19th January, 1874, the accounts of Morris were stated by the Treasury Department, and a balance of $5,923.66 struck against him.

The defendants pleaded as follows:

(1.) They traversed the averment of the first breach.

(2.) They traversed the averment of the second breach.

(3.) That they do not owe the sums in the declaration

mentioned, and give notice that various special matters will be given in evidence under this plea.

(4.) That the several sums mentioned in the declaration have been paid. (R., pp. 4, 5.)

Issue was joined under all these pleas (R., p. 6), and the case was tried on the 6th of July, 1881, resulting in a verdict for the defendants.

Several rulings of the court during the trial were duly excepted to by the plaintiff. (R., pp. 22–43.)

(1.) The first ruling excepted to is the rejection of the copy of the bond sued on, upon the ground that it was not authenticated according to law.

(2.) The second ruling excepted to is that the court refused to withdraw the case from the jury and continue it to enable the plaintiff to procure the original of said bond or a copy authenticated in accordance with the opinion of the court.

(3.) The third ruling excepted to is the rejection of a certain transcript of the books and proceedings of the Treasury Department, on the ground that they were not authenticated according to law.

(4.) The fourth ruling excepted to is the refusal to grant a new trial, on the ground that since the trial of the case the plaintiff had procured a new copy of the bond and a new transcript of the Treasury proceedings with new certifications.

## ERRORS ASSIGNED.

The only ruling on which error is assigned is that rejecting the transcript of the books and proceedings of the Treasury Department.

*ARGUMENT.*

The ruling rejecting the copy of the bond we shall not stop to consider, because the bond was not relevant evidence, there being nothing in the pleas to bring it in anywise in issue. All the pleas are, so far as the bond is concerned, essentially in confession and avoidance, thus relieving the plaintiff of the burden of proving that instrument.

The second ruling excepted to, being the refusal of the court to stop the trial, and give the plaintiff time to supply the alleged defects in his documentary evidence, and the fourth ruling excepted to, being the refusal to grant a new trial, belong to the category of discretionary powers, which are not reviewable by this court.

The only other question presented by the record, then, is the third ruling, respecting the transcript of the books and proceedings of the Treasury Department, which were offered by the Government.

The objection to this evidence is that it was not authenticated pursuant to section 886 Revised Statutes.

That section provides that—

> "When suit is brought in any case of delinquency of a revenue officer or other person accountable for public money, a transcript from the books and proceedings of the Treasury Department, certified by the Register and authenticated under the seal of the Department, or, when the suit involves the accounts of the War or Navy Departments, certified by the auditors, respectively, charged with the examination of those accounts, and authenticated under the seal of

the Treasury Department, shall be admitted as evidence, and the court trying the cause shall be authorized to grant judgment and award execution accordingly."

* * * * *

The authentication affixed to the transcript offered in evidence is as follows:

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
*Washington, D. C., Feb'y* 11, 1881.

Pursuant to section 886 of the Revised Statutes of the United States, I, Charles Beardsley, Fourth Auditor of the Treasury Department, do hereby certify that the annexed is a transcript of the books and proceedings of the Treasury Department in account with Miles H. Morris, late paymaster in the U. S. Navy, under bond of April 9, 1858.

CHARLES BEARDSLEY,
*Auditor.*

Be it remembered that Chas. Beardsley, esq., who certified the annexed transcript, is now, and was at the time of doing so, Fourth Auditor of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John Sherman, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this eleventh day of February, in the year of our Lord 1881.

{SEAL OF DEPARTMENT.} JOHN SHERMAN,
*Secretary of the Treasury.*

The objection to this mode of authentication is that the statute (*supra*) requires the transcript to be "authenticated under the seal of the Treasury Department," and that this requirement is not gratified by placing the seal in juxtaposition with the certificate of the Secretary of the Treasury that the person describing himself as Fourth Auditor was in fact such officer.

It would really seem that this objection is *inter apices juris.*

The formula employed is the same as was used in Smith *v.* United States (5 Pet., 292), and in United States *v.* Stone (106 U. S., p. 525), in which latter case the court said, in answer to the objection that the certificates annexed to the Treasury transcripts "are not such as the law requires," "If there is anything in them illegal, insufficient, or incomplete, we have not been able to discover it." (*Ib.*, p. 529.)

The new certificates of authentication procured in this case in support of the motion for a new trial followed this precise formula (R., p. 43), which is the established manner of certifying transcripts; so that, if the transcript in this case is not well certified, none ever is so.

But is there anything substantial in the objection? The law requires the *Auditor himself* to make the certificate and it requires that certificate to be authenticated by the seal of the Treasury Department. It is not the Auditor who is to affix the seal, the Secretary of the Treasury does that, and in so doing, in connection with his certificate that the person holding himself out as Fourth Auditor is such, duly authenticates or shows to be genuine the Auditor's certificate. It was surely not the intention of the statute

that the Secretary should affix the seal of the Department to a certification of facts not within his official cognizance. The office of the seal is to show that what has been done was officially done.

It is submitted that the judgment should be reversed.

WM. A. MAURY,
*Assistant Attorney-General.*

111-477

# Supreme Court of the United States.

OCTOBER TERM, A. D. 1883.

THE UNITED STATES
*vs.*
E. C. BELL AND JEFFERSON WILSON. } No. 294.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF MISSISSIPPI.

## BRIEF FOR DEFENDANTS IN ERROR.

CHARLES F. BENJAMIN,
RICHARD McALLISTER, JR.,
*Counsel for Defendants in Error.*

WASHINGTON, D. C.:
C. W. BROWN, PRINTER, 923 F STREET, NORTHWEST.
1884.

# Supreme Court of the United States.

OCTOBER TERM, A. D. 1883.

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THE UNITED STATES
*vs.*
E. C. BELL AND JEFFERSON WILSON. } No. 294.

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## BRIEF FOR DEFENDANTS IN ERROR.

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This was an action against some of the sureties to the official bond of a purser in the Navy, to recover the penalty thereof; with a separate count for the sum of $5,923.66, declared to be due on a balance of account betwixt the United States and the principal to the bond.

At the trial of the action the plaintiffs below offered in evidence what purported to be a copy of the bond sued upon, certified as such by the Secretary of the Treasury under seal of that department (Record, p. 22.) To this the defendants below objected and it was ruled out.

The plaintiffs below also offered in evidence what purported to be copies of various statements of account between the plaintiffs and the principal to the bond, certified by the Fourth Auditor of the Treasury, but not under the seal of that department (p. 41.) To these the defendants below also excepted and they were ruled out. Thereupon verdict was returned for the defendants and judgment entered accordingly. Motion for a new trial was duly made, heard and overruled, whereupon the cause was brought to this Court by writ of error.

The errors assigned in the bill of exceptions are as follows:

1. That the Court erred in excluding from the jury the copy of the bond offered in evidence.

2. That the Court erred in overruling the motion of the plaintiffs to continue the cause till the original bond, or another copy thereof, could be brought into court.

3. That the Court erred in refusing to allow the copies of statement of account to be read to the jury as evidence.

4. That the Court erred in overruling the motion for a new trial.

## Summary of the Argument.

1. Documents offered in evidence at the trial of an action at law, must be proved according to the rules of the common law, or, otherwise, in strict conformity to the statute or statutes relied upon as modifying the common law.

2. The determination of a motion to continue a cause actually on trial, or to grant a new trial, pertains to the sound discretion of the trial court and is not reviewable elsewhere, except there appear misconduct or improvidence in the exercise of the discretion.

3. The record in this cause discloses substantial proofs of the exercise of sound discretion in the court below.

## I.

The pleas of these defendants (p. 5) and their exceptions (7) to the copy of the alleged bond attached to the declaration required of the plaintiffs below that they should either produce the original bond, or prove the contents of the same in manner and form as the statute directed. The original bond was not produced, nor its absence explained. Under Sec. 886, Rev. Stats. a copy might have been substituted if certified to be a true copy by the proper auditor of the Treasury. It was not a compliance with this statute to offer a copy certified by the Secretary of the Treasury, who could

only have certified upon hearsay knowledge. By the provisions of the common law the defendants below were entitled to have the original bond submitted to the inspection of the judge, the jury and themselves. (See also Sec. 861, Rev. Stats.) The statute admitting a certified copy is in derogation of their rights in matter of substance as well as in mere form, and must be strictly followed if substantial rights are not to be put in jeopardy.—(Smith *v.* U. S., 5 Pet., 292, 300.) Neither the written nor the unwritten law authorizes the Secretary of the Treasury to certify to a a copy of a purser's bond. Any general authority conferred by Sec. 882, Rev. Stats., is negatived by the special provisions of Sec. 886 as to such bonds as this sued upon.

## II.

The refusal of the court below to break up a trial actually in progress, so that the plaintiffs might have time to bring in the original bond, was altogether reasonable. The action was begun October 22, 1866, and the issue was joined June 5, 1867. The plaintiffs had leave to amend their pleadings December 18, 1868, and not doing so, the cause was dismissed June 17, 1869. More than four years afterwards they obtained a reinstatement of the cause. Then they waited six and a half years and got further leave to amend and a second indulgence of the same kind six months afterwards. When the cause came on for trial July 6, 1881, they had had notice for nearly thirteen years (p. 7) that the defendants would insist upon the production of a duly authenticated copy of the bond sued upon. In the opinion rendered upon the motion for new trial the court below said: "At the last term of the court the case was withdrawn from the jury and the cause continued to the present term under the *express agreement* that the cause would be finally disposed of at the present term and no further delay claimed for want of a properly certified transcript of the papers and proceedings * * The principal in the bond died long since, in-

solvent, and to longer continue the cause against his sureties, who know nothing of the state of the accounts, would be unjust to them."

An appellate court will not review the exercise of the sound discretion of the court below.

*Sims* v. *Hundley*, 6 How., 1.
*Thompson* v. *Selden*, 20 How., 194.
*McEuul* v. *Ramsey*, *ibid*, 523.

These were all cases where continuance of trial was refused.

## III.

To prove the liability of the defendants below, the plaintiffs below offered certains papers, certified by the auditor charged with the examination of the accounts of the Navy Department to be a transcript of the books and proceedings of the Treasury Department in account with Miles H. Morris, etc. The certificate purports to be made pursuant to Sec. 886, Rev. Stats., and reference to that statute shows that any authority for offering such a transcript in evidence must be derived from it. That statute requires the transcript to be "authenticated under the seal of the Treasury Department." The transcript offered here was not so authenticated, the only appearance of said seal being in connection with a certificate that the person describing himself as the auditor with the examination of accounts of the Navy Department was in fact, such auditor. It is in testimony of that fact, and not in testimony that the accompanying papers were a transcript of the books and proceedings of the Treasury Department that the seal is exhibited. This question was not raised in *Smith* v. *The United States*, 5 Pet. 292; the objection there being to the signing of the name of the head of the Department by another official. The objections to this alleged transcript are as substantial and as fatal as those that relate to the bond above mentioned.

The "reconciling statement" (p. 24) was made up more

than seven years after the bringing of the action, and the death of the principal was admitted in the declaration; so that no reasonable opportunity appears to have been afforded to the latter, or to the defendants below, to show cause why he should not be charged with nearly 13 years interest on the balance alleged to be due from him.

IV.

The grounds of the refusal to grant a new trial are given at large in the opinion of the court below (p. 45.) Briefly stated, they are that the copy of bond and transcript of proceedings offered in evidence were not legally authenticated; that repeated continuances had been granted to enable the plaintiffs below to obtain proper evidence; that the cause had been once withdrawn from the jury for the accomodation of the plaintiffs; that such withdrawal was allowed upon conditions incompatible with the granting of a new trial; that the principal to the bond had been long dead, and that the sureties had no longer the means of testing the accuracy of the accounts produced by the plaintiffs. The sum and substance are that the plaintiffs had been negligent and that the defendants had been prejudiced thereby, so that it would be against equity to hold them to further liability. In *Shedden* v. *Attorney General*, (22 L. T. N. S., 631, H. L.) a new trial was refused, for the production of evidence which might have been procured by proper diligence.

Respectfully submitted:

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